



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 22, 2015

Mr. Juan J. Cruz  
Counsel for United Independent School District  
Escamilla, Poneck & Cruz, LLP  
216 West Village Boulevard, Suite 202  
Laredo, Texas 78041

OR2015-26976

Dear Mr. Cruz:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 591500.

The United Independent School District (the "district"), which you represent, received a request from an investigator with the Texas Education Agency ("TEA") for information pertaining to a named individual, specifically: (1) certain identifying information, except for a specified social security number; (2) contact information; (3) disciplinary history; (4) employment documents, except for performance evaluations under the Performance Development Appraisal System ("PDAS") or other authorized appraisal system; and (5) any other document pertaining to any investigation of educator misconduct or criminal history. You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, and 552.111 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor specifically excludes the specified social security number and PDAS information from the scope of the request. Accordingly, these types of information,

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<sup>1</sup>Although you raise Texas Rule of Evidence 503 and Texas Rule of Civil Procedure 192.5, we note the proper exceptions to raise when asserting the attorney-client and attorney work product privileges for information not subject to section 552.022 of the Government Code are sections 552.107 and 552.111 of the Government Code, respectively. *See* Open Records Decision Nos. 677 (2002), 676 at 6 (2002).

which we have marked, are not responsive to the instant request. This ruling does not address the public availability of non-responsive information, nor is the district required to release non-responsive information to this requestor.<sup>2</sup>

Next, we note the requestor is an investigator with the TEA and states she is seeking the requested information under the authority provided to the State Board for Educator Certification (“SBEC”) by section 249.14 of title 19 of the Texas Administrative Code. Chapter 249 of title 19 of the Texas Administrative Code governs disciplinary proceedings, sanctions, and contested cases involving SBEC. *See* 19 T.A.C. § 249.4. Section 249.14 provides in relevant part:

(a) [TEA] staff may obtain and investigate information concerning alleged improper conduct by an educator, applicant, examinee, or other person subject to this chapter that would warrant the [SBEC] denying relief to or taking disciplinary action against the person or certificate.

...

(c) TEA staff may also obtain and act on other information providing grounds for investigation and possible action under this chapter.

19 T.A.C. § 249.14(a), (c). The requestor states the TEA has opened an investigation regarding the alleged misconduct or criminal history information of the named employee, and she requires the requested records in order to conduct a full and complete investigation. The investigator also states the alleged misconduct or criminal history information could warrant disciplinary action relating to the teacher’s educator certification. Thus, we find the information at issue is subject to the general right of access afforded to the TEA under section 249.14.

We note a specific statutory right of access prevails over general exceptions to disclosure under the Act. *See* Open Records Decision No. 451 at 4 (1986) (specific access provision prevails over generally applicable exception to public disclosure). Although you seek to withhold the responsive information under sections 552.107(1) and 552.111 of the Government Code, these sections are general exceptions to disclosure under the Act. Therefore, the TEA’s statutory right of access under section 249.14 prevails, and none of the information at issue may be withheld under section 552.107 or section 552.111. *See* Open Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (specific statutory right of access provisions overcome general exception to disclosure under the Act). Therefore, the district must release

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<sup>2</sup>As our ruling is dispositive, we need not address your arguments against disclosure of this information.

the submitted information to the TEA pursuant to section 249.14 of title 19 of the Texas Administrative Code.<sup>3</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/bhf

Ref: ID# 591500

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>Because the TEA has a right of access to certain information in the submitted documents that otherwise would be excepted from release under the Act, the district must again seek a decision from this office if it receives a request for this information from a different requestor without such a right of access.